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ABSTRACT

A charter school is a public school that is operated under a detailed contract with a public agency and that may be exempt from many state and local regulations. This policy brief provides a brief overview of charter school characteristics and legislation, and discusses the concerns of policymakers in four states: Kentucky, Tennessee, Virginia, and West Virginia. Following a definition of charter schools, viewpoints for and against charter schools are examined. A profile of charter schools points out that most are small, are nongraded or nontraditional in grade configuration, and have student demographics similar to other public schools. Governance is determined by state legislation, and the extent of charter school autonomy varies widely. Issues that policymakers must address in charter school legislation are listed. Results of research on charter school effectiveness have been mixed. The following concerns are specific to the four-state region: the rural nature of much of the region, which creates problems related to facilities and transportation; issues related to equity of school funding; and the above-average number of special education students in the region. The status of charter school legislation in each of the states is described. Sidebars discuss vouchers, examine how federal criteria affect funding for state and local charter school proposals, and list related Web sites. (Contains 31 references.) (SV)

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CHARTER SCHOOLS: THE PERSPECTIVE FROM AEL'S REGION

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Policy Briefs

AEL

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Charter Schools: The Perspective from AEL's Region

Minnesota passed the first charter school legislation in 1991. Seven years later, about three-fifths of the states had followed suit.[1] In 1999, President Clinton announced federal aid to 32 states that had applied for charter school funds. Existing programs were granted a total of $54 million dollars, and $41 million dollars was earmarked for start up grants for the express purpose of increasing the number of charter schools from the more than 1,700 that currently exist to 3,000 by the year 2001.

Policymakers in AEL's region (Kentucky, Tennessee, Virginia, and West Virginia) have approached legislation more cautiously. This issue of Policy Briefs provides an overview of charter school legislation, looks at concerns specific to AEL's region, and reports on the status of charter school legislation in four states

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What are charter schools?

A charter school is a public school that is designed and operated under a contract with a public agency such as a local school board, the state board of education, the state commissioner or superintendent of education, or other public entities. The contract spells out the terms of the school's operation, including what will be taught, what students will achieve, and how success will be measured.[2] Most contracts are granted for a 3-5-year period.

Charter schools may be granted exemptions from many of the state and local regulations, restrictions, and mandates of traditional public schools.[3] In exchange for autonomy, they must be accountable to students, parents, and the public for results. Public funding follows students to the school, and schools may not charge tuition. As part of a state's public education system, charter schools must admit students on a nondiscriminatory basis and may not have any religious affiliation.[4] However, in Michigan, National Heritage Academies are charter schools with a marketing campaign directed at evangelical families. There are 22 schools with 8,600 students (two of the schools are in upstate New York). The administrators say that they are teaching values, but their detractors claim that they are encouraging overt promotion of religion. The Michigan Civil Liberties Union has taken the National Heritage Academies to the U.S. District Court in Grand Rapids on the grounds that they are violating the separation of church and state.[5]

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Why charter schools?

People support charter schools for a variety of reasons. Parents may prefer having a choice within the public education system. Parents, educators, and policymakers may see them as a vehicle for school reform that can improve results for students. To some, they present an opportunity for local control and decentralization, as well as increased parent and community involvement. Others value a chance to create innovative learning opportunities and experiences or reach a particular group of underserved students. Finally, to some they offer increased accountability for education spending as well as student outcomes.

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Why not charter schools?

Despite proponents' claims about what charter schools can do, many parents, educators, and policymakers have reservations about them. Because charter schools may be exempt from many state requirements and can operate for years without having

RC 022134

to show results, some worry about their quality. Others are concerned that they will exclude certain groups of students, such as those with disabilities; siphon limited education funds from other schools; or lead to the flow of public funds to private and religious schools.

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How do charter schools look?

Charter schools are diverse. Their local origins and the variations in state laws that govern them produce schools that look very different. However, national studies reveal some characteristics they share: most are small, with an average of 132 students; most are nongraded or have nontraditional grade configurations, such as K-12 or K-8; and most, 62 percent, are newly created (25 percent previously existed as public schools and 13 percent previously existed as private schools before they applied for charters).[6]

In spite of fears to the contrary, most charter school populations have demographics similar to other public schools; however, about 16 percent of charter schools serve a higher percentage of students of color than their surrounding districts. On average, charter schools serve about the same percentage of students with limited English proficiency as other public schools but a slightly lower percentage of students with disabilities.[7] However, charter schools in some states serve the same or higher proportions of students with disabilities, and some schools specifically target students with special needs.[8]

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How are charter schools governed?

Regulations governing the formation and operation of charter schools are determined by state legislation. Proponents of charter schools characterize state laws from weak (those allowing limited autonomy) to strong (those allowing full autonomy).

States that retain control over charter schools limit their independence from local school districts. The charter school remains part of the local district and is subject to most district policies, especially in relation to staffing, budget, and curriculum. Exemptions to regulations may be granted on a case-by-case basis or must be specified in law. Restrictive laws frequently place annual or absolute caps on the number of charters that can be approved or may allow only existing public schools to apply. California, Georgia, and Wisconsin are states that tend to have more restrictive laws.

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national studies reveal some characteristics they share: most are small, with an average of 150 students; most are non-graded or have nontraditional grade configurations, such as K-12 or K-8; and most, 62 percent, are newly created

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In contrast, states that grant considerable autonomy provide automatic waivers from most regulations except for health, safety, and civil rights laws. They allow charter schools to make their own budget and staff decisions, including the ability to hire uncertified teachers. Some states' laws do not limit the number of charters granted or restrict who can apply for them. In some states, for example, for-profit entities cannot operate charters. Some allow organizations other than local boards of education to approve and sponsor charters (e.g., colleges, universities, or state boards created specifically for that purpose). Some states provide a means of appeal for charters denied at the local level. Legislatures in Arizona, Colorado, Massachusetts, Michigan, and Minnesota are representative of those states that provide autonomy.[9]

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What issues must policymakers consider in charter school legislation?

Although charter laws vary across states, certain key issues must be addressed by legislation. Those issues include the following list, which is certainly not intended to be exhaustive.

- Who may sponsor or grant charters?
- Will charters be independent legal entities or part of school districts?
- How many charters can be granted?
- Who may apply for charters?
- What criteria will be used to

approve/deny charter applications?

- Can denials be appealed, and to whom?
- What terms should be contained in charter contracts?
- What should be the length of the contract?
- What state laws and policies can be waived for charters?
- Will waivers be blanket or determined school-by-school?
- What requirements and restrictions will apply to charter school personnel (e.g., right to collective bargaining, certification requirements)?
- Who will be responsible for student transportation to charter schools?
- How will the states fund charters, and will other funding be allowed?
- How will special education services be provided to charter students?
- What measures will be used to determine accountability for student performance?
- How will the effectiveness of charter schools be evaluated?
- How will charter schools demonstrate fiscal responsibility?[10, 11]

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What does research say about charter school effectiveness?

Charter schools are too new to be generating much data on student achievement, but so far the results are mixed. Michigan's 1997 statewide testing showed that, as a group, students in charter schools scored much lower than students attending traditional public schools.[12, 13] In Arizona, charter schools claimed both the highest and the lowest scores on the state's Stanford 9 Achievement Test. Student achievement in reading, math, and language increased at 35 charter schools but decreased at 20 others, while statewide composite scores for traditional public school students showed significant improvement over the previous year.[14, 15] In contrast, a survey of 60 charter schools reported dramatic achievement results in some schools.[16] Another study of 30 charter schools found achievement gains in two-thirds of them, and a preliminary study of test results in Massachusetts showed academic gains for students in six out of eight schools.[17, 18] In general, parental satisfaction has been high. Of course, the small number of charter school students participating in grade-level testing, as well as the variability among charter schools and their student populations, make comparisons difficult.

Since most charter schools have characteristics associated with student success—small size, high parent involvement, and student choice to attend—and are free from most of the regulations accompanying public educa-

What about vouchers?

In contrast to charter schools, which are public schools with a private school flavor, voucher programs supply public, per-pupil funds to parents to pay their child's tuition at a private school. The current administration opposes vouchers on the grounds that they would undermine America's common school experience, redirect significant funds from public schools to exclusive schools that are unaccountable to the public, and undermine private education by subjecting it to public regulation.[1]

Vouchers have been the subject of court battles in several states because they can channel public funds to church-affiliated schools. Opponents claim that vouchers therefore violate constitutional principles separating church and state. However, a recent decision by the U.S. Supreme Court let stand a Wisconsin ruling that the state's voucher plan is constitutional. Voucher proponents believe that this ruling will help support the spread of vouchers to other states.[2]

Public opposition to vouchers appears to be softening. A recent poll reports that a small majority of Americans now support the use of vouchers to send children to any public, private, or church-related school.[3]

1. U.S. Department of Education. (n.d.) Frequently asked questions. Washington, DC: Author. Available: http://www.ed.gov/offices/OLCA/faq.html.
2. Greenberg, J. (1998, November 10) Top court lets school voucher plan stand, Chicago Tribune. Available: http://chicagotribune.com/news/nat...d/article/0,1051,ART-18300,00.html.
3. (August 26, 1998). Opposition to school vouchers softening, poll finds, *New York Times*. Available: http://archives.nytimes.com/archives/search/fastweb?search.

tion—they have the potential to positively affect student achievement.[19] In the continued development of charter school legislation, policymakers should determine how to ensure accountability for student performance.[20]

A study of Britain's version of charters found that instead of system reform, educational improvement, and choice, charter schools resulted in social segregation, niche schools with little ability to affect the system while diverting funds from educating students to marketing the school. In addition, hidden factors such as the cost of transportation and lesser awareness of charter schools' offerings among lower SES parents, affected the ability of parents to choose thus increasing social stratification.[21]

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What other concerns might policymakers in AEL's region have about charter schools?

Because much of AEL's region is rural, locating appropriate facilities for charter schools may be a problem. Most charter schools lease commercial space, which may be nonexistent in rural, undeveloped areas.[22] Even poor, urban neighborhoods may want for available space. Alternative locations may also raise concerns about suitability as learning environments, safety, and handicap accessibility; the costs of bringing such facilities up to code could be prohibitive.

Transportation might also pose a problem for policymakers. Charter schools are not subject to geographic boundaries and can attract students from anywhere. This raises the question of how to transport students to charter schools, and whether that responsibility rests with the school, district, or parents. If the district assumes responsibility, charter schools must conform to the district's bus schedule. In addition, shuttling students from all parts of a district, particularly in rural communities where one charter school may serve an expansive geographic area, may prove too costly to be feasible.[23] If districts don't provide transportation and charter schools don't receive extra funding to provide it, then responsibility will most likely fall to parents.

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Legislators may also have concerns about education funds being siphoned from local public schools as federal, state, and local monies follow students to charter schools.

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Legislators may also have concerns about education funds being siphoned from local public schools as federal, state, and local monies follow students to charter schools. For example, since West Virginia is still working to implement the Recht Decision, which ruled the state's school funding mechanism to be inequitable, legislators may be hesitant to complicate the issue by adding charter schools to the mix.[24]

Since AEL's four states have an above-average number of special education students, policymakers may want to know how charter schools plan to serve students with disabilities. National data show lower overall percentages of special education students in charter schools, though some charters target students with disabilities.[25] However, reports that disabled children lack access to some charter schools, as well as parental complaints of inadequate services for their children attending charter schools, have prompted the U.S. Department of Education's Office of Special Education Services to develop policy guidelines regarding charter schools and special education. Policymakers can reduce the possibility of problems arising by addressing special education as legislation is drafted.[26]

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What are AEL states doing about charter schools?

Kentucky

Kentucky legislators have remained focused on the broad education guidelines established by the Kentucky Education Reform Act of 1990 (KERA). KERA established school-based decision making, which, like charters, grants local schools and communities wide flexibility to choose curricula and spend education funds. KERA also provides accountability to parents for school performance: students who choose to leave poorly performing schools are provided transportation to attend more successful schools, and school and district personnel—including principals, superintendents, and local boards of education—can be replaced if school performance does not improve.[27]

Tennessee

After reviewing the research on charter schools, the Tennessee State Board of Education developed a framework to use as a guide in reviewing proposed charter school legislation. The framework recommends that charters be approved and sponsored through local school boards for five-year periods, with appeals going to the Commissioner of Education for final approval by the State Board of Education. Personnel of charters sponsored by local boards would be local district employees, with the same salary, benefits, rights, and licensure requirements as other public school personnel. The framework would allow the Commissioner of Education to waive licensure requirements for no more than 25 percent of a charter's personnel if the school provides appropriate written justification. It would allow charters to target academically disadvantaged students but would require demonstrated improvement in student achievement as measured by the same assessments administered to public school students statewide. It proposes that charters receive federal, state, and local funds on the same basis as all public schools, including proportionate shares of special education and Title I monies as well as transportation allotments (if the school provides transportation). The framework recommends that the sponsoring agency monitor its charters at least annually and that charters contract with a certified public accountant for annual financial audits. The framework proposes that the state establish a revolving fund to provide loans to charter schools for start-up expenditures.[28]

According to House Education Chairman Gene Davidson, Tennessee's cautiousness is due to lack of information about charter school results. Major issues to be resolved include teacher certification and student participation in statewide testing.[29]

Virginia

Virginia became the first state in AEL's region to enact charter school legislation with the passage of HB 543 during the 1998 session of the General Assembly. Signed into law by Governor James Gilmore, the legislation gives local school boards the sole authority to grant charters, beginning in July 1998. In 1999, Virginia passed HB 1577, which clarifies support for Regional Charter Schools. In the original law, establishment of two charters per district is permitted during the first two years, and the number of charters cannot exceed 10 percent of the district's total number of schools or two charters, whichever is greater. Approved charters will receive up to three-year contracts, and their personnel will be employees of the local school board.

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Virginia became the first state in AEL's region to enact charter school legislation with the passage of HB 543 during the 1998 session of the General Assembly.

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Virginia charter schools must comply with all federal and state laws but may receive waivers from state regulations and local school board policies. Their mission, educational programs, pupil performance standards, curricula, goals, and objectives must be consistent with and meet or exceed Virginia Standards of Quality, Standards of Learning, and Standards of Accreditation; although some Standards of Accreditation may be waived. Charter applications must include detailed plans for finance, instruction, transportation, and evaluation of student performance. The student performance evaluation will include assessments to measure student progress toward learning goals and objectives. The student performance data will help local boards and superintendents determine charter school success or failure. The local school board must submit an annual report to the State Board of Education evaluating each charter school and comparing the performance of charter school students to that of students in regular schools. The State Board of Education, in turn, must report annually to the governor and General Assembly.

When granting charters, districts must give priority to schools designed to increase educational opportunities for at-risk students. In addition, at least one-half of a district's charters must be reserved for schools designed to serve at-risk students. Charter schools serving disabled and disadvantaged students will receive a proportionate share of state and federal monies and resources for special populations.[30]

West Virginia

Like Tennessee, the lack of information about charter school viability and effectiveness, especially in predominantly rural states, may have caused West Virginia legislators to be slow to introduce charter school legislation. Over the past decade, the legislature has committed more resources to education—including an initiative to equip all classrooms with computers and Internet connections—and is receiving high marks nationally for its efforts. An amendment to a school funding bill that would have allowed counties to use funds to study charter schools was withdrawn voluntarily during the 1998 legislative session so that various stakeholders could be included in more careful consideration of the issues. In West Virginia, the education stakeholders—including union leadership, the governor's staff, department of education staff, legislative staff, and representatives from higher education—continue dialogue about how to move forward with charter schools, without undermining public education.[31]

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How do federal criteria affect funding for state and local charter school proposals?

The *Charter Schools Expansion Act* of 1998 increases accountability for student performance and strengthens charter school autonomy. As its title suggests, it aims "to expand the number of high-quality charter schools available to students across the nation."[1] Because it gives priority to states that allow diverse chartering entities and an appeals process for denied charters, it favors states with stronger, more autonomous laws and makes it harder for states with more restrictive laws to get federal funding.

The Act gives priority funding in fiscal years 1999 and beyond to states that provide for a review and evaluation of each school by the chartering agency and that meet one or more of the following additional criteria:

- the state has demonstrated progress in increasing the number of high-quality charter schools that meet clear and measurable objectives for student performance
- the state provides for one chartering agency that is not an LEA unless, in the case where LEAs are the chartering agency, the state allows for an appeals process for the denial of an application
- the state ensures that each charter school has a high degree of autonomy over budgets and expenditures[2]

The new evaluation requirement calls for charter schools to be reviewed at least once every five years to determine if schools are meeting the terms of their charters and the academic performance requirements and goals set forth by state law or their charters.

States with more restrictive charter school legislation can improve their chances of having proposals funded if they do the following:

- grant several high-quality charters, which are operating at the time of application
- demonstrate LEA support and enthusiasm for charter schools (or describe firm plans for building LEA support)
- write plans that contain explicit information about how autonomy over budgets and expenditures will be ensured (e.g., where autonomy is negotiated with an LEA, the proposal could include specifics about how LEA-charter school negotiations resulted in budget autonomy in currently operating schools)
- provide detailed information about the flexibility schools will have to determine curriculum, hire personnel, and seek exemptions and waivers from state laws and/or regulations (again, this could include specific information about these issues regarding currently operating schools)[3]

Schools in states with charter school legislation that have not received federal charter school funding can individually apply for federal grants under the Act, thereby supplementing state per-pupil funds to help cover the costs of school start-up and operations. The presence of operating schools in an unfunded state will increase the chances that future state proposals will be funded. Also, the number of charter schools operating or approved to open in a state will help to determine the amount of funding a state receives.

1. H.R. 2616, 105th Cong., 2d Sess. (1998) (enacted) §3 (a)(3).
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WHERE CAN POLICYMAKERS GET WEB-BASED INFORMATION ON CHARTER SCHOOLS?

U.S. Charter Schools Web Site
http://www.uscharterschools.org
(links to state laws)

National Conference of State Legislatures
http://www.ncsl.org
(summaries of state laws)

Education Commission of the States
http://www.ecs.org/ecs/220e.htm

American Association of School Administrators
http://aasa.org/charters/charter.htm

NCREL Charter Schools Web Site
http://www.ncrel.org/sdres/timely/charters.htm

Charter School Research
http://csr.syr.edu

Hudson Institute's Education Excellence Network
http://www.edexcellence.net

Center for Applied Research and Education Improvement
http://carei.coled.umn.edu/charter.html

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